

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

LUCKY B. KELLER,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:24-CV-5042-MDH
)	
WESTLAKE FINANCIAL SERVICES,)	
LLC, and PAUL KERWIN, CFO OF)	
WESTLAKE FINANCIAL SERVICES,)	
LLC,)	
)	
Defendant.)	
)	

**DEFENDANT PAUL KERWIN’S REPLY IN SUPPORT OF
MOTION TO DISMISS AMENDED COMPLAINT**

Paul Kerwin (“Kerwin”), inaccurately named as “CFO Paul Kerwin (Westlake Financial),” submits the following Reply in support of his Motion to Dismiss Plaintiff’s Amended Complaint.

I. INTRODUCTION

Kerwin filed his Motion to Dismiss for lack of personal jurisdiction pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure [Doc. 19] as his responsive pleading to Plaintiff’s Amended Complaint [Doc. 17]. Plaintiff filed a document titled “Motion to Assert Proper Venue & Opposition to Dismissal” [Doc. 24] (“Plaintiff’s Opposition”) when the only pending Motion to Dismiss was Kerwin’s motion [Doc. 19]. Although not clear from Plaintiff’s filing, Kerwin replies to the same assuming this document was in opposition to his Motion to Dismiss.

II. LEGAL STANDARD

In a motion to dismiss challenging personal jurisdiction, the plaintiff bears the burden of showing personal jurisdiction over the challenging defendant. *Fastpath, Inc. v. Arbela Techs, Corp.*, 760 F.3d 816, 820 (8th Cir. 2014). A Court views the evidence in the light most favorable to the plaintiff, resolving any factual conflicts in the plaintiff’s favor. *Id.* “The inquiry whether a

forum State may assert specific jurisdiction over a nonresident defendant ‘focuses on ‘the relationship among the defendant, the forum, and the litigation.’ *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 775 (1984) (quoting *Shaffer v. Heitner*, 433 U.S. 186, 2024 (1977)).” *Walden v. Fiore*, 571 U.S. 277, 283–84 (2014). “[T]he relationship must arise out of contacts that the ‘defendant *himself*’ creates with the forum state. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 475, 105 S. Ct. 2174, 85 L. Ed. 2d 528 (1985).” *Walden v. Fiore*, 571 U.S. 277, 284 (2014) (emphasis original). “Our ‘minimum contacts’ analysis looks to the defendant’s contacts with the forum State itself, not the defendant’s contacts with persons who reside there.” *Id.* at 285.

III. LEGAL ARGUMENT

Plaintiff’s “Opposition” focuses on *venue* being proper for Westlake and is silent as to any facts or evidence to properly establish personal jurisdiction over Kerwin. In fact, the only mention of Kerwin in Plaintiff’s “Opposition” is under Plaintiff’s section arguing about venue and states:

Defendant Westlake Financial Services, LLC, transacted business in Missouri, including extending financial instruments and enforcing security agreements with Missouri residents, tying the actions of Defendant Kerwin to this venue.

See Doc. 24 at p. 1 of 4.

Plaintiff’s “Opposition” fails to identify specifically what the “actions of Defendant Kerwin” supposedly were or any contacts Kerwin himself created with Missouri. Plaintiff has the burden to show personal jurisdiction over Kerwin when facing a motion to dismiss for lack of personal jurisdiction. Plaintiff has not met such burden as to Kerwin, and Plaintiff’s Amended Complaint should be dismissed as to Kerwin for lack of personal jurisdiction.

WHEREFORE, based on the above and foregoing, and the arguments and authorities contained in Kerwin’s Motion to Dismiss [Doc. 19] and the Suggestions in Support filed contemporaneously therewith [Doc. 20], Westlake respectfully moves the Court to dismiss

Plaintiff's Amended Complaint as against Kerwin for lack of personal jurisdiction, and for all other relief the Court deems just.

Respectfully submitted, this 9th day of December, 2024.

KNIGHT NICASTRO MACKAY, LLC

/s/ Phillip R. Raine

Derek H. MacKay #59078

Phillip R. Raine #66169

Lawrence E. Nordling #62319

304 West 10th Street

Kansas City, MO 64105

Telephone: (816) 396-0343

Facsimile: (816) 396-6233

Email: mackay@knightnicastro.com

raine@knightnicastro.com

nordling@knightnicastro.com

ATTORNEYS FOR DEFENDANT

WESTLAKE SERVICES, LLC & PAUL

KERWIN

Certificate of Service

I hereby certify on December 9th, 2024, the foregoing was electronically filed using the ECF filing system. Additionally, I certify that a copy of the Motion to Dismiss was sent via electronic mail to the following addressee as identified on the summons:

PRO SE Litigant
Lucky Keller
kellerlucky2@gmail.com

/s/ Phillip R. Raine
Phillip R. Raine